



# Military Personnel Instructions

- *Taxation of military compensation and benefits*
- *Nonresident military personnel with Utah non-military income*
- *Filing requirements and deadlines*



## Utah State Tax Commission

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*If you need an accommodation under the Americans with Disabilities Act, contact the Tax Commission at 801-297-3811, or TDD 801-297-2020. Please allow three working days for a response.*

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## General Information

Federal tax laws provide some special benefits for active members of the U.S. Armed Forces, including those serving in combat zones.

For federal tax purposes, the U.S. Armed Forces includes commissioned officers, warrant officers, and enlisted personnel in all regular and reserve units under control of the Secretaries of Defense, Army, Navy and Air Force. The U.S. Armed Forces also includes the Coast Guard. It does not include members of the U.S. Merchant Marine or the American Red Cross.

National Guard members who are called to active service by the President of the United States or the Secretary of Defense for a period of more than 30 consecutive days in response to a national emergency declared by the President and supported by federal funds are also qualified for these benefits.

See IRS Publication 3 on the IRS web site at [www.irs.gov](http://www.irs.gov) for additional federal tax information regarding members of the U.S. Armed Forces, including tables of items included and excluded from income.

## Utah Treatment

Utah treats military pay and allowances of a resident taxpayer the same as the IRS. If income is included in federal adjusted gross income, it is automatically included in Utah income. Conversely, if income is excluded from federal taxation, it is also excluded for Utah purposes.

A special calculation is required when a Utah nonresident military member (or their spouse if filing a joint Utah return) has non-military income from a Utah source. See "Nonresident Military Personnel with Utah Non-military Income" on page 2.

## Residency Issues

A military member's domicile (home of record) does not change when they are stationed in another state on military orders.

## Utah Resident or Nonresident

Utah residents who enter military service do not lose their Utah residency solely by being absent from Utah due to military orders. Likewise, residents of other states who are in Utah solely due to military orders are considered nonresidents of Utah while stationed in Utah.

A Utah resident is required to file a Utah income tax return and report all income received during the period of Utah residency regardless of the source of that income. If income tax is paid to another state on nonmilitary income earned in that state, a credit for the tax paid to the other state may be allowed on the Utah return. (See Utah Form TC-40S.)

Military pay of nonresidents who are stationed in Utah solely due to their military orders is not subject to Utah income tax. However, nonresident military personnel and members of their family who are residing in Utah and earn income from Utah sources – other than active duty military service pay – are required to file a Utah return and pay any Utah tax due.

## When a Non-military Spouse Earns Income in Utah

The spouse of a person in active duty military service is generally considered, for Utah tax purposes, to have the same domicile as the military spouse and is subject to the same Utah income tax laws and rules that apply to the military spouse.

The following income is taxable by the state of Utah:

- Any income of a nonmilitary resident spouse;
- Any income earned from Utah sources by a nonresident spouse, other than active duty military pay.
- Any income earned by a part-year resident spouse during the period of residency.

## When One Spouse is a Resident and the Other a Nonresident

When one spouse is a full-year Utah resident and the other is a full-year nonresident, they may file their Utah returns using the special calculation outlined under “Married Military Personnel Special Calculation” on page 3. If either spouse is a part-year resident, the couple cannot file using this special calculation.

The following procedures should be used when one spouse is a full-year resident and the other spouse is a nonresident and they elect to file using the special calculation:

1. If you file separate federal returns, you must file separate Utah returns.
2. If you file a joint federal return, you may choose to file either:
  - a. A joint Utah return – you must include all income of both spouses as reported on your federal return; or
  - b. Separate returns for Utah if using the special calculation. (See “Married Military Personnel Special Calculation” on page 3 for instructions.)

## Death Gratuity Tax Treatment

Any death gratuity paid to a survivor of a member of the Armed Forces is nontaxable.

## National Guard and Reserves Military Pay – 2005

For tax years beginning on or after Jan. 1, 2005, but before Jan. 1, 2006, Utah law allows a Utah resident a partial deduction for

military pay that was included in federal adjusted gross income for the following “qualified military service members”:

- A deduction for the first \$2,200 of military income earned from a unit located in Utah (if assigned to that Utah unit) for a member of:
  - The Army Reserve,
  - The Naval Reserve,
  - The Air Force Reserve,
  - The Marine Corps Reserve, or
  - The Coast Guard Reserve.
- A deduction for the first \$2,200 of military income earned by a member of the following:
  - The Utah Army National Guard, or
  - The Utah Air National Guard.

The deduction is taken by entering the qualified military pay, up to \$2,200, which was included in federal adjusted gross income, on the 2005 Utah TC-40, Schedule S, Part 2. Use code “83” to identify this deduction. (You can obtain prior year Utah tax returns at [tax.utah.gov/forms/old.html](http://tax.utah.gov/forms/old.html).)

Note: For years beginning on or after Jan. 1, 2006, this deduction no longer applies and National Guard and Reserve military pay will be fully taxable in Utah.

## Nonresident Military Personnel with Utah Non-military Income

A special calculation must be made by qualified nonresident military personnel to compute the Utah income tax on their non-military Utah income. This income could be from non-military employment, or from a non-military spouse's earnings. The following instructions and examples on page 4 show how to do this calculation.

## Federal Law

Federal law prohibits states from considering the military income of a nonresident service member when determining the individual income tax for either the service member or the service member's spouse on a joint return.

To ensure nonresident military service members receive the benefit of this provision of the law, nonresident active duty military service members (or their spouse if filing a joint return) stationed in Utah who have Utah income from sources other than military pay may use these special instructions to calculate their Utah tax.

## Single Military Personnel Special Calculation

Military personnel who are not married should follow the line-by-line instructions for completing the TC-40, with the following modifications:

1. Deduct any active duty military pay that was included in your federal adjusted gross income as a “Deduction from Income” on your Utah TC-40A, Part 2. Use **code “82”** for this deduction.
2. Complete your Utah return through line 23.
3. Calculate the Utah tax for line 24 by completing TC-40B, Non or Part-year Resident Utah Income Schedule.
  - a. On the TC-40B, enter the active duty military income (included in wages, salaries, tips, etc. on line 1, column B) on line 30, column B. This adjustment removes the active

duty pay from the total federal income and is necessary to properly calculate the Utah tax. (Note: This adjustment will cause the federal adjusted gross income shown on line 4 of the TC-40 to be higher than the federal income, shown on the TC-40B, line 32, column B.)

- b. Use the totals from TC-40B, line 32 to calculate the ratio on line 33 by dividing line 32, column A by line 32, column B. Calculate this ratio to four decimal places.
  - c. Enter on TC-40B, line 34 the tax amount shown on form TC-40, line 23.
  - d. Multiply the tax entered on line 34 by the ratio (decimal) on line 33 and enter the result on line 35. This is your Utah tax. Enter this tax on form TC-40, line 24.
4. Complete the remainder of the Utah return per TC-40 instructions. (See the example on page 4.)

## Married Military Personnel Special Calculation

If one spouse is a full-year Utah resident and the other is a full-year nonresident they may choose to use "Special Instructions for Married Couples" in Tax Commission Publication 49. If you qualify to use these Special Instructions, you should make the above adjustments first to the separate return of the active duty military spouse, then follow the calculation instructions in Publication 49. (See the example on page 4 of these instructions.)

## Filing Returns

### Where To File

Mail or deliver your completed Utah individual income tax return to the address below:

#### Refund Return

Utah State Tax Commission  
210 N 1950 W  
Salt Lake City, UT 84134-0260

#### All Other Returns (including payments)

Utah State Tax Commission  
210 N 1950 W  
Salt Lake City, UT 84134-0266

### When To File

You must file your 2008 Utah return and pay any income tax due:

- By April 15, 2009, if you file on a calendar year basis (tax year ends Dec. 31, 2008); or
- By the 15th day of the fourth month following the close of the fiscal year, if you file on a fiscal year basis.

All Utah income taxes for the year 2008 must be paid by the due date. If your return is not filed on time, you may be subject to penalties and interest. However, see the following extension instructions.

## Extensions

You are automatically allowed an extension of up to six months to file your Utah return without filing an extension form. However, there is NO extension of time to pay your taxes – only an extension of time to file your Utah tax return. All extension returns must be filed by Oct. 15, 2009. (See exception for military personnel below.)

A Utah resident in the military and stationed outside the United States will be granted a waiver of penalty for late filing if the return is filed on or before the 15th day of the fourth month after the taxpayer's return to the United States or discharge date,

whichever is earlier. Interest is still due on any unpaid amounts from the original due date until the tax is paid. For information on combat zone relief, check our website at [tax.utah.gov/armed-forces.html](http://tax.utah.gov/armed-forces.html).

## Service that Qualifies for an Extension of Deadline

Military personnel serving in a combat zone are eligible to have collection or audit actions suspended up to 180 days after the military person has left the zone.

Taxpayers qualifying for such combat zone relief may notify the Tax Commission directly of their status through a special e-mail address: [combatzone@utah.gov](mailto:combatzone@utah.gov). They should provide their name, stateside address, date of birth, and date of deployment to the combat zone. The taxpayer, spouse, or an authorized agent or representative may make this notification.

The Tax Commission cannot provide tax account information by e-mail. Therefore, we will send responses to any questions by regular mail to the address we have on record within two business days. We may provide general answers to questions regarding the status of individual combat zone updates via e-mail.

## Signing Returns

You, and your spouse if filing a joint return, must sign the return. You may also authorize someone to sign for you by granting a power of attorney.

Utah rules relating to filing a return for a military spouse who is serving overseas, serving in a combat zone, serving in a qualified hazardous duty area, is in missing status, is incapacitated, or who died during the year follow the federal rules. See IRS Publication 3 for details.

## Where to Get Help

If you have additional questions regarding the Utah treatment of military personnel, please contact us at the address or telephone numbers below.

Utah State Tax Commission  
210 N 1950 W  
Salt Lake City UT 84134

801-297-7705 in the Salt Lake area, or

800-662-4335, extension 7705 if calling from outside the Salt Lake area.

You may submit your questions by fax at 801-297-6357, or you may email us at [taxmaster@utah.gov](mailto:taxmaster@utah.gov).

You can also obtain information on federal treatment at:

- Soldiers' and Sailors' Civil Relief Act of 1940, United States Code, Title 50, Section 573.
- Utah Service Members' Civil Relief Act, Utah Code, Title 39, Chapter 7.

## Examples

### Example for Single Military Personnel

James is a single nonresident taxpayer in active duty military service stationed in Utah. In addition to his active duty military pay of \$18,000, James has non-military pay from a Utah part-time job of an additional \$12,500. James is required to file a Utah return. His Utah return is calculated as follows:

1. Adjusted gross income from federal return (TC-40, line 4)	\$30,500
2. Additions to income from TC-40A, Part 1 (TC-40, line 5)	0
3. Add lines 1 and 2 (TC-40, line 6)	30,500
4. Deductions from income from TC-40A, Part 2 – military pay, code 82 (TC-40, line 7)	(18,000)
5. Utah taxable income – subtract line 4 from line 3 (TC-40, line 8)	\$12,500
6. Utah tax - line 5 multiplied by 5% (TC-40, line 10)	625
7. Personal exemption amount (TC-40, line 11)	2,625 *
8. Federal standard or itemized deductions (TC-40, line 12)	5,450
9. Add line 7 and line 8 (TC-40, line 13)	8,075
10. State income tax deducted on federal Schedule A, line 5 (TC-40, line 14)	0
11. Subtract line 10 from line 9 (TC-40, line 15)	8,075
12. Initial taxpayer tax credit - multiply line 11 by 6% (TC-40, line 16)	485
13. Base phase-out amount (TC-40, line 17)	12,000
14. Subtract line 13 from line 5 (TC-40, line 18)	500
15. Multiply line 14 by 1.3% (TC-40, line 19)	7
16. Taxpayer tax credit - subtract line 15 from line 12 (TC-40, line 20)	478
17. Utah income tax - subtract line 16 from line 6 (TC-40, line 21, and TC-40B, line 34)	147
18. Total Utah income (TC-40B, line 32, column A)	12,500
19. Federal adjusted gross income (from line 1 above)	30,500
20. Adjustment on TC-40B, line 30, column B to remove military pay	18,000
21. Adjusted federal AGI – subtract line 20 from line 19 (TC-40B, line 32, column B)	12,500
22. Ratio – line 18 divided by line 21 (TC-40B, line 33)	1.0000
23. Utah tax - line 17 multiplied by ratio on line 22 (TC-40B, line 35)	147
This is the Utah tax entered on TC-40, line 24.	

\* Utah exemption amount for 2008 is \$2,625 (75% of federal exemption of \$3,500), unless limited on federal return.

### Example for Married Military Personnel

Terry is a married active duty military member whose military home of record is Arizona. He was transferred to Utah's Hill Air Force Base in March of 2008. He and his wife had adjusted gross income on their federal return of \$55,600. Terry had active duty military pay of \$24,875, and his spouse had non-military income of \$4,700 from her previous employment in Arizona and \$25,775 from her non-military job in Utah, plus \$250 of interest earned from their bank in Arizona. They are required to file a joint Utah return. Their joint Utah return is calculated as follows:

1. Adjusted gross income from federal return (TC-40, line 4)	\$55,600
2. Additions to income from TC-40A, Part 1 (TC-40, line 5)	0
3. Add lines 1 and 2 (TC-40, line 6)	55,600
4. Deductions from income from TC-40A, Part 2 – military pay, code 82 (TC-40, line 7)	(24,875)
5. Utah taxable income – subtract line 4 from line 3 (TC-40, line 8)	\$30,725
6. Utah tax - line 5 multiplied by 5% (TC-40, line 10)	1,536
7. Personal exemption amount (TC-40, line 11)	5,250 *
8. Federal standard or itemized deductions (TC-40, line 12)	10,900
9. Add line 7 and line 8 (TC-40, line 13)	16,150
10. State income tax deducted on federal Schedule A, line 5 (TC-40, line 14)	0
11. Subtract line 10 from line 9 (TC-40, line 15)	16,150
12. Initial taxpayer tax credit - multiply line 11 by 6% (TC-40, line 16)	969
13. Base phase-out amount (TC-40, line 17)	24,000
14. Subtract line 13 from line 5 (TC-40, line 18)	6,725
15. Multiply line 14 by 1.3% (TC-40, line 19)	87
16. Taxpayer tax credit - subtract line 15 from line 12 (TC-40, line 20)	882
17. Utah income tax - subtract line 16 from line 6 (TC-40, line 21, and TC-40B, line 34)	654
18. Total Utah income (TC-40B, line 32, column A)	25,775
19. Federal adjusted gross income (from line 1 above)	55,600
20. Adjustment on TC-40B, line 30, column B to remove military pay	24,875
21. Adjusted federal AGI – subtract line 20 from line 19 (TC-40B, line 32, column B)	30,725
22. Ratio – line 18 divided by line 21 (TC-40B, line 33)	.8389
23. Utah tax - line 17 multiplied by ratio on line 22 (TC-40B, line 35)	549
This is the Utah tax entered on TC-40, line 24.	

\* Utah exemption amount for 2008 is \$2,625 (75% of federal exemption of \$3,500), unless limited on federal return.